

SHB 2475 - S COMM AMD

By Committee on Highways & Transportation

ADOPTED 03/05/2004

1 Strike everything after the enacting clause and insert the
2 following:

3 "Sec. 1. RCW 46.61.690 and 1983 c 247 s 1 are each amended to read
4 as follows:

5 Any person who uses a toll bridge, toll tunnel, toll road, or toll
6 ferry, and the approaches thereto, operated by the state of Washington,
7 the department of transportation, ~~((or any))~~ a political subdivision or
8 municipal corporation empowered to operate toll facilities, or an
9 entity operating a toll facility under a contract with the department
10 of transportation, a political subdivision, or municipal corporation,
11 at the entrance to which appropriate signs have been erected to notify
12 both pedestrian and vehicular traffic that it is entering a toll
13 facility or its approaches and is subject to the payment of tolls at
14 the designated station for collecting tolls, commits a traffic
15 infraction if:

16 (1) ~~((Such))~~ The person does not pay, refuses to pay, evades, or
17 attempts to evade the payment of such tolls, or uses or attempts to use
18 any spurious ~~((or))~~, counterfeit, or stolen ticket~~((s))~~, coupon~~((s))~~,
19 ~~((or))~~ token~~((s))~~, or electronic device for payment of any such tolls,
20 or

21 (2) ~~((Such))~~ The person turns, or attempts to turn, the vehicle
22 around in the bridge, tunnel, loading terminal, approach, or toll plaza
23 where signs have been erected forbidding such turns, or

24 (3) ~~((Such))~~ The person refuses to move a vehicle through the toll
25 ~~((gates))~~ facility after having come within the area where signs have
26 been erected notifying traffic that it is entering the area where toll
27 is collectible or where vehicles may not turn around and where vehicles
28 are required to pass through the toll ~~((gates))~~ facility for the
29 purpose of collecting tolls.

1 **Sec. 2.** RCW 46.63.030 and 2002 c 279 s 14 are each amended to read
2 as follows:

3 (1) A law enforcement officer has the authority to issue a notice
4 of traffic infraction:

5 (a) When the infraction is committed in the officer's presence;

6 (b) When the officer is acting upon the request of a law
7 enforcement officer in whose presence the traffic infraction was
8 committed; (~~or~~)

9 (c) If an officer investigating at the scene of a motor vehicle
10 accident has reasonable cause to believe that the driver of a motor
11 vehicle involved in the accident has committed a traffic infraction; or

12 (d) When the notice of infraction is detected through the use of a
13 photo enforcement system under section 6 of this act.

14 (2) A court may issue a notice of traffic infraction upon receipt
15 of a written statement of the officer that there is reasonable cause to
16 believe that an infraction was committed.

17 (3) If any motor vehicle without a driver is found parked,
18 standing, or stopped in violation of this title or an equivalent
19 administrative regulation or local law, ordinance, regulation, or
20 resolution, the officer finding the vehicle shall take its registration
21 number and may take any other information displayed on the vehicle
22 which may identify its user, and shall conspicuously affix to the
23 vehicle a notice of traffic infraction.

24 (4) In the case of failure to redeem an abandoned vehicle under RCW
25 46.55.120, upon receiving a complaint by a registered tow truck
26 operator that has incurred costs in removing, storing, and disposing of
27 an abandoned vehicle, an officer of the law enforcement agency
28 responsible for directing the removal of the vehicle shall send a
29 notice of infraction by certified mail to the last known address of the
30 person responsible under RCW 46.55.105. The notice must be entitled
31 "Littering--Abandoned Vehicle" and give notice of the monetary penalty.
32 The officer shall append to the notice of infraction, on a form
33 prescribed by the department of licensing, a notice indicating the
34 amount of costs incurred as a result of removing, storing, and
35 disposing of the abandoned vehicle, less any amount realized at
36 auction, and a statement that monetary penalties for the infraction
37 will not be considered as having been paid until the monetary penalty
38 payable under this chapter has been paid and the court is satisfied

1 that the person has made restitution in the amount of the deficiency
2 remaining after disposal of the vehicle.

3 NEW SECTION. **Sec. 3.** A new section is added to chapter 46.63 RCW
4 to read as follows:

5 (1) In a traffic infraction case involving an infraction detected
6 through the use of a photo enforcement system under section 6 of this
7 act, proof that the particular vehicle described in the notice of
8 traffic infraction was in violation of any such provision of section 6
9 of this act, together with proof that the person named in the notice of
10 traffic infraction was at the time of the violation the registered
11 owner of the vehicle, constitutes in evidence a prima facie presumption
12 that the registered owner of the vehicle was the person in control of
13 the vehicle at the point where, and for the time during which, the
14 violation occurred.

15 (2) This presumption may be overcome only if the registered owner
16 states, under oath, in a written statement to the court or in testimony
17 before the court that the vehicle involved was, at the time, stolen or
18 in the care, custody, or control of some person other than the
19 registered owner.

20 **Sec. 4.** RCW 46.16.216 and 1990 2nd ex.s. c 1 s 401 are each
21 amended to read as follows:

22 (1) To renew a vehicle license, an applicant shall satisfy all
23 listed standing, stopping, and parking violations, and other
24 infractions issued under RCW 46.63.030(1)(d) for the vehicle incurred
25 while the vehicle was registered in the applicant's name and forwarded
26 to the department pursuant to RCW 46.20.270(3). For the purposes of
27 this section, "listed" standing, stopping, and parking violations, and
28 other infractions issued under RCW 46.63.030(1)(d) include only those
29 violations for which notice has been received from state or local
30 agencies or courts by the department one hundred twenty days or more
31 before the date the vehicle license expires and that are placed on the
32 records of the department. Notice of such violations received by the
33 department later than one hundred twenty days before that date that are
34 not satisfied shall be considered by the department in connection with
35 any applications for license renewal in any subsequent license year.
36 The renewal application may be processed by the department or its
37 agents only if the applicant:

1 (a) Presents a preprinted renewal application showing no listed
2 standing, stopping, (~~and~~) or parking violations, or other infractions
3 issued under RCW 46.63.030(1)(d), or in the absence of such
4 presentation, the agent verifies the information that would be
5 contained on the preprinted renewal application; or

6 (b) If listed standing, stopping, (~~and~~) or parking violations, or
7 other infractions issued under RCW 46.63.030(1)(d) exist, presents
8 proof of payment and pays a fifteen dollar surcharge.

9 (2) The surcharge shall be allocated as follows:

10 (a) Ten dollars shall be deposited in the motor vehicle fund to be
11 used exclusively for the administrative costs of the department of
12 licensing; and

13 (b) Five dollars shall be retained by the agent handling the
14 renewal application to be used by the agent for the administration of
15 this section.

16 (3) If there is a change in the registered owner of the vehicle,
17 the department shall forward the information regarding the change to
18 the state or local charging jurisdiction and release any hold on the
19 renewal of the vehicle license resulting from parking violations or
20 other infractions issued under RCW 46.63.030(1)(d) incurred while the
21 certificate of license registration was in a previous registered
22 owner's name.

23 (4) The department shall send to all registered owners of vehicles
24 who have been reported to have outstanding listed parking violations or
25 other infractions issued under RCW 46.63.030(1)(d), at the time of
26 renewal, a statement setting out the dates and jurisdictions in which
27 the violations occurred as well as the amounts of unpaid fines and
28 penalties relating to them and the surcharge to be collected.

29 **Sec. 5.** RCW 46.20.270 and 1990 2nd ex.s. c 1 s 402 are each
30 amended to read as follows:

31 (1) Whenever any person is convicted of any offense for which this
32 title makes mandatory the suspension or revocation of the driver's
33 license of such person by the department, the privilege of the person
34 to operate a vehicle is suspended until the department takes the action
35 required by this chapter, and the court in which such conviction is had
36 shall forthwith secure the immediate forfeiture of the driver's license
37 of such convicted person and immediately forward such driver's license
38 to the department, and on failure of such convicted person to deliver

1 such driver's license the judge shall cause such person to be confined
2 for the period of such suspension or revocation or until such driver's
3 license is delivered to such judge: PROVIDED, That if the convicted
4 person testifies that he or she does not and at the time of the offense
5 did not have a current and valid vehicle driver's license, the judge
6 shall cause such person to be charged with the operation of a motor
7 vehicle without a current and valid driver's license and on conviction
8 punished as by law provided, and the department may not issue a
9 driver's license to such persons during the period of suspension or
10 revocation: PROVIDED, ALSO, That if the driver's license of such
11 convicted person has been lost or destroyed and such convicted person
12 makes an affidavit to that effect, sworn to before the judge, the
13 convicted person may not be so confined, but the department may not
14 issue or reissue a driver's license for such convicted person during
15 the period of such suspension or revocation: PROVIDED, That perfection
16 of notice of appeal shall stay the execution of sentence including the
17 suspension and/or revocation of the driver's license.

18 (2) Every court having jurisdiction over offenses committed under
19 this chapter, or any other act of this state or municipal ordinance
20 adopted by a local authority regulating the operation of motor vehicles
21 on highways, or any federal authority having jurisdiction over offenses
22 substantially the same as those set forth in Title 46 RCW which occur
23 on federal installations within this state, shall forward to the
24 department within ten days of a forfeiture of bail or collateral
25 deposited to secure the defendant's appearance in court, a payment of
26 a fine or penalty, a plea of guilty or a finding of guilt, or a finding
27 that any person has committed a traffic infraction an abstract of the
28 court record in the form prescribed by rule of the supreme court,
29 showing the conviction of any person or the finding that any person has
30 committed a traffic infraction in said court for a violation of any
31 said laws other than regulations governing standing, stopping, parking,
32 and pedestrian offenses.

33 (3) Every state agency or municipality having jurisdiction over
34 offenses committed under this chapter, or under any other act of this
35 state or municipal ordinance adopted by a state or local authority
36 regulating the operation of motor vehicles on highways, may forward to
37 the department within ten days of failure to respond, failure to pay a
38 penalty, failure to appear at a hearing to contest the determination
39 that a violation of any statute, ordinance, or regulation relating to

1 standing, stopping, ~~((or))~~ parking, or other infraction issued under
2 RCW 46.63.030(1)(d) has been committed, or failure to appear at a
3 hearing to explain mitigating circumstances, an abstract of the
4 citation record in the form prescribed by rule of the department,
5 showing the finding by such municipality that two or more violations of
6 laws governing standing, stopping, and parking or one or more other
7 infractions issued under RCW 46.63.030(1)(d) have been committed and
8 indicating the nature of the defendant's failure to act. Such
9 violations or infractions may not have occurred while the vehicle is
10 stolen from the registered owner or is leased or rented under a bona
11 fide commercial vehicle lease or rental agreement between a lessor
12 engaged in the business of leasing vehicles and a lessee who is not the
13 vehicle's registered owner. The department may enter into agreements
14 of reciprocity with the duly authorized representatives of the states
15 for reporting to each other violations of laws governing standing,
16 stopping, and parking.

17 (4) For the purposes of Title 46 RCW the term "conviction" means a
18 final conviction in a state or municipal court or by any federal
19 authority having jurisdiction over offenses substantially the same as
20 those set forth in Title 46 RCW which occur on federal installations in
21 this state, an unvacated forfeiture of bail or collateral deposited to
22 secure a defendant's appearance in court, the payment of a fine, a plea
23 of guilty, or a finding of guilt on a traffic law violation charge,
24 regardless of whether the imposition of sentence or sanctions are
25 deferred or the penalty is suspended, but not including entry into a
26 deferred prosecution agreement under chapter 10.05 RCW.

27 (5) For the purposes of Title 46 RCW the term "finding that a
28 traffic infraction has been committed" means a failure to respond to a
29 notice of infraction or a determination made by a court pursuant to
30 this chapter. Payment of a monetary penalty made pursuant to RCW
31 46.63.070(2) is deemed equivalent to such a finding.

32 NEW SECTION. Sec. 6. A new section is added to chapter 46.63 RCW
33 to read as follows:

34 (1) This section applies only to traffic infractions issued under
35 RCW 46.61.690 for toll collection evasion.

36 (2) Nothing in this section prohibits a law enforcement officer
37 from issuing a notice of traffic infraction to a person in control of

1 a vehicle at the time a violation occurs under RCW 46.63.030(1) (a),
2 (b), or (c).

3 (3) Toll collection systems include manual cash collection,
4 electronic toll collection, and photo enforcement systems.

5 (4) "Electronic toll collection system" means a system of
6 collecting tolls or charges that is capable of charging the account of
7 the toll patron the appropriate toll or charge by electronic
8 transmission from the motor vehicle to the toll collection system,
9 which information is used to charge the appropriate toll or charge to
10 the patron's account.

11 (5) "Photo enforcement system" means a vehicle sensor installed to
12 work in conjunction with an electronic toll collection system that
13 automatically produces one or more photographs, one or more
14 microphotographs, a videotape, or other recorded images of a vehicle
15 operated in violation of an infraction under this chapter.

16 (6) The use of a toll collection system is subject to the following
17 requirements:

18 (a) The department of transportation shall adopt rules that allow
19 an open standard for automatic vehicle identification transponders used
20 for electronic toll collection to be compatible with other electronic
21 payment devices or transponders from the Washington state ferry system,
22 other public transportation systems, or other toll collection systems
23 to the extent that technology permits. The rules must also allow for
24 multiple vendors providing electronic payment devices or transponders
25 as technology permits.

26 (b) The department of transportation may not sell, distribute, or
27 make available in any way, the names and addresses of electronic toll
28 collection system account holders.

29 (7) The use of a photo enforcement system for issuance of notices
30 of infraction is subject to the following requirements:

31 (a) Photo enforcement systems may take photographs, digital
32 photographs, microphotographs, videotapes, or other recorded images of
33 the vehicle and vehicle license plate only.

34 (b) A notice of infraction must be mailed to the registered owner
35 of the vehicle or to the renter of a vehicle within sixty days of the
36 violation. The law enforcement officer issuing the notice of
37 infraction shall include with it a certificate or facsimile thereof,
38 based upon inspection of photographs, microphotographs, videotape, or
39 other recorded images produced by a photo enforcement system, stating

1 the facts supporting the notice of infraction. This certificate or
2 facsimile is prima facie evidence of the facts contained in it and is
3 admissible in a proceeding charging a violation under this chapter.
4 The photographs, digital photographs, microphotographs, videotape, or
5 other recorded images evidencing the violation must be available for
6 inspection and admission into evidence in a proceeding to adjudicate
7 the liability for the infraction.

8 (c) Notwithstanding any other provision of law, all photographs,
9 digital photographs, microphotographs, videotape, or other recorded
10 images prepared under this chapter are for the exclusive use of the
11 tolling agency and law enforcement in the discharge of duties under
12 this section and are not open to the public and may not be used in a
13 court in a pending action or proceeding unless the action or proceeding
14 relates to a violation under this chapter. No photograph, digital
15 photograph, microphotograph, video tape, or other recorded image may be
16 used for any purpose other than enforcement of violations under this
17 chapter nor retained longer than necessary to enforce this chapter or
18 verify that tolls are paid.

19 (d) All locations where a photo enforcement system is used must be
20 clearly marked by placing signs in locations that clearly indicate to
21 a driver that he or she is entering a zone where traffic laws are
22 enforced by a photo enforcement system.

23 (8) Infractions detected through the use of photo enforcement
24 systems are not part of the registered owner's driving record under RCW
25 46.52.101 and 46.52.120.

26 (9) If the registered owner of the vehicle is a rental car business
27 the department of transportation or a law enforcement agency shall,
28 before a notice of infraction being issued under this section, provide
29 a written notice to the rental car business that a notice of infraction
30 may be issued to the rental car business if the rental car business
31 does not, within eighteen days of the mailing of the written notice,
32 provide to the issuing agency by return mail:

33 (a) A statement under oath stating the name and known mailing
34 address of the individual driving or renting the vehicle when the
35 infraction occurred; or

36 (b) A statement under oath that the business is unable to determine
37 who was driving or renting the vehicle at the time the infraction
38 occurred; or

1 (c) In lieu of identifying the vehicle operator, the rental car
2 business may pay the applicable toll and fee.

3 Timely mailing of this statement to the issuing law enforcement
4 agency relieves a rental car business of any liability under this
5 chapter for the notice of infraction."

SHB 2475 - S COMM AMD
By Committee on Highways & Transportation

ADOPTED 03/05/2004

6 In line 1 of the title, after "evasion;" strike the remainder of
7 the title and insert "amending RCW 46.61.690, 46.63.030, 46.16.216, and
8 46.20.270; and adding new sections to chapter 46.63 RCW."

EFFECT: Technical adjustments are made to the toll infraction
provisions to make them consistent in statute with other infractions.
A provision is added to limit the toll photographs to be used only for
toll enforcement.

--- END ---